

1 HOUSE BILL NO. 153

2 INTRODUCED BY BALLANTYNE

3 BY REQUEST OF THE OFFICE OF PUBLIC INSTRUCTION

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING AN EMPLOYEE OF A STATE OR LOCAL
6 EDUCATIONAL AGENCY THAT IS NOT PROVIDING EDUCATIONAL SERVICES TO A CHILD WITH A
7 DISABILITY TO SERVE AS A SURROGATE PARENT FOR THAT CHILD; ~~AND~~ AMENDING SECTION
8 20-7-461, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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12 **Section 1.** Section 20-7-461, MCA, is amended to read:

13 **"20-7-461. Appointment and termination of appointment of surrogate parent.** (1) A school district
14 or institution that provides education to a child with a disability shall adopt procedures to assign an individual
15 to act as a surrogate parent for a child with a disability whenever the parents or guardian cannot be identified
16 or, after reasonable efforts, the location of the parents cannot be discovered or if the child is a ward of the state.
17 The determination of need for a surrogate parent must be made within 10 days of the date on which the school
18 district or its designee or the governing authority of an institution or its designee learns of the presence of the
19 child in the district. If the child is in need of a surrogate parent, the trustees of a school district or their designee
20 or the governing authority of an institution or its designee shall nominate a surrogate for the child within 30 days
21 of that determination.

22 (2) The person nominated as a surrogate parent must be an adult who is not an employee of a state
23 or local educational agency that is providing educational services to the child. The surrogate parent may not
24 have a vested interest that will conflict with the person's representation and protection of the child. The
25 surrogate, whenever practicable, must be knowledgeable about the educational system, special education
26 requirements, and the legal rights of the child in relation to the educational system. Whenever practicable, the
27 surrogate parent must be familiar with the cultural or language background of the child.

28 (3) The nomination for appointment of a surrogate parent, along with all necessary supporting
29 documents, must be submitted to the youth court for official appointment of the surrogate parent by the court.
30 The trustees of a school district or their designee or the governing authority of an institution or its designee shall

1 take all reasonable action to ensure that the youth court appoints or denies the appointment of a person
2 nominated as a surrogate parent within 45 days of the court's receipt of all necessary supporting documents.
3 If the youth court denies an appointment, the trustees of a district or their designee or the governing authority
4 of an institution or its designee shall nominate another person to be appointed as the surrogate parent.

5 (4) The superintendent of public instruction shall adopt rules for a procedure to terminate the
6 appointment of a surrogate parent when:

7 (a) a child's parents are identified;

8 (b) the location of the parents is discovered;

9 (c) the child is no longer a ward of the state; or

10 (d) the surrogate parent wishes to discontinue the appointment."

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12 NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

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